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12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA

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DENIS MULLIGAN, Individually and on  
Behalf of All Others Similarly Situated,

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Plaintiff,

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v.  
17 IMPAX LABORATORIES, INC., LARRY  
HSU, ARTHUR A. KOCH and BRYAN M.  
18 REASONS,

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Defendants.

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(Caption continued on next page)

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Case No. 3:13-cv-01037-EMC

**RESPONSE OF BOILERMAKER  
BLACKSMITH NATIONAL PENSION  
TRUST TO COURT'S ORDER RE  
MOTIONS FOR APPOINTMENT AS  
LEAD PLAINTIFF**

DATE: June 21, 2013

TIME: 1:30 p.m.

COURTROOM: 5

Honorable Edward M. Chen

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RESPONSE TO COURT'S ORDER RE MOTIONS FOR APPOINTMENT AS LEAD PLAINTIFF  
Case No. 3:13-cv-01037-EMC

1 HAVERHILL RETIREMENT SYSTEM,  
2 Individually and on Behalf of All Others  
3 Similarly Situated,

Case No. 3:13-CV-01566-EMC

4 Plaintiff,

5 v.  
6 IMPAX LABORATORIES, INC., LARRY  
7 HSU, ARTHUR A. KOCH, and BRYAN M.  
8 REASONS,

9 Defendants.

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1                   The Boilermaker Blacksmith National Pension Trust (“Boilermaker”) respectfully submits  
 2 this response to the Court’s June 17, 2013 Order Re Motions for Appointment as Lead Plaintiff  
 3 (Dkt. No. 45). The Order directed the lead plaintiff movants to submit to the Court their financial  
 4 interest as calculated using the retained share method from *Eichenholtz v. Verifone Holdings, Inc.*,  
 5 C07-06140MHP, 2008 WL 3925289 (N.D. Cal. Aug. 22, 2008).

6                   The *Eichenholtz* retained share method involves first “determining the shares bought  
 7 during the class period that were retained” at the end of the class period. *Id.* at \*4. Here,  
 8 Boilermaker retained 77,075 shares of Impax stock at the end of the class period, March 4, 2013.  
 9 *See* loss charts and certification attached as Exhibits B and D to the May 6, 2013 Declaration of  
 10 Daniel S. Sommers (“Sommers Decl.”) (Dkts. No. 17-2, 17-4).<sup>1</sup>

11                  Next, “[t]he amount paid for the shares retained as of [the end of the class period] are  
 12 calculated according to the price paid for the shares bought most recently in time, but prior to,  
 13 [the end of the class period.]” *Eichenholtz*, 2008 WL 3925289, at \*4. Here, the price paid for  
 14 shares during Boilermaker’s last class period purchase (on September 18, 2012) was \$24.3688.  
 15 *See* Sommers Decl., Exs. B, D. This yields a total retained value of \$1,878,225.26.<sup>2</sup>

16                  Finally, the “losses on the retained shares are calculated according to the following  
 17 formula:”

18                  if a share was not sold within 90 days subsequent to [March 4, 2013], the loss is  
 19 to be measured using an average of the daily closing price of [Impax] stock during  
 20 the 90-day period beginning [March 4, 2013]. If a share was sold within 90 days  
 21 subsequent to [March 4, 2013], the loss is to be measured using the higher of the  
 22 actual sale price or an average of the daily closing price from [March 4, 2013] to  
 23 the date of sale.

24                  *Eichenholtz*, 2008 WL 3925289, at \*4.

25                  Here, all of Boilermaker’s retained shares were sold during the 90-day period after March

26                  <sup>1</sup> The retained shares figure is the same under both the class period identified in *Mulligan v.*  
 27 *Impax Laboratories, Inc., et al.*, C-13-1037 EMC and the class period identified in *Haverhill*  
 28 *Retirement System v. Impax Laboratories, Inc., et al.*, C-13-1566-EMC, and, hence,  
 Boilermaker’s financial interest under the retained share method are the same for both proposed  
 class periods.

<sup>2</sup> The result would be approximately the same if the actual purchase price of the retained shares  
 was used. Using the actual purchase price yields a total retained value of \$1,825,610.67.

1 4, 2013. *See Exhibit A attached hereto.*<sup>3</sup> Therefore, for each of the retained shares, the loss was  
2 measured using the higher of the actual sale price or an average of the daily closing price from  
3 March 4, 2013 to the date of sale. Applying this formula, Boilermaker's financial interest is  
4 \$629,309.67 under both class periods.<sup>4</sup> *See Exhibit B.*

5 Boilermaker stands ready to submit any additional information the Court may request.

6 Dated: June 18, 2013

7 Respectfully submitted,

8 GOLD BENNETT CERA & SIDENER LLP

9 /s/ Solomon B. Cera  
10 Solomon B. Cera

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25 <sup>3</sup> Exhibit A sets forth post-class period sales of Boilermaker's retained shares and details the date  
of each transaction, the number of shares sold, the actual sale price, the "lookback price"  
26 measured by the average daily closing price of Impax stock as of the date of each sale, and the  
value for each sale.

27 <sup>4</sup> Boilermaker notes that its financial interest would be \$576,695.08 if actual purchase prices are  
used rather than the price paid for the shares most recently bought in time as required by the  
28 *Eichenholtz* court.